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Attorneys for Defendant and Counterclaimant  
MAY ALLEN

**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

BEAUTIFUL SLIDES, INC., a Delaware  
corporation; and MITCH GRASSO, an  
individual,

Plaintiffs,

v.

MAY ALLEN, an individual,

Defendant.

Case No.: 3:17-cv-01091(MMC)

**DECLARATION OF KRISTEN E.  
DRAKE IN SUPPORT OF  
DEFENDANT MAY ALLEN'S MOTION  
TO COMPEL THE DEPOSITION OF  
MITCH GRASSO**

Date: December 1, 2017  
Time: 9:00 a.m.  
Dept.: 7  
Judge: Hon. Maxine M. Chesney

AND RELATED CROSS ACTION.

I, Kristen E. Drake, hereby declare:

1. I am an attorney licensed to practice law in California, and am of counsel at Wood Robbins, LLP, attorneys for Defendant May Allen ("Allen"). I make this declaration in support of Allen's Motion to Compel the Deposition of Mitch Grasso. I have personal knowledge of the following facts and if called upon to testify, would and could do so competently.

2. My colleague Greg Wood initiated meet and confer discussions concerning cross-defendant Mitch Grasso's ("Grasso") availability for his deposition on August 18, 2017.

1 Counsel for Grasso, Bill Frimel, responded on August 23, 2017, asking if the deposition notice  
2 would include document requests and inquiring as to why Grasso should be deposed before the  
3 pleadings were settled. Attached hereto as Exhibit A is a true and correct copy of an email  
4 received by Mr. Wood from Mr. Frimel on August 23, 2017 at 11:52 a.m.

5 3. Mr. Wood responded to Grasso's inquiry about the document production and  
6 asked for support concerning Grasso's position that discovery was premature in light of the  
7 pending motion to dismiss. Attached hereto as Exhibit B is a true and correct copy of an email  
8 sent from Mr. Wood to Mr. Frimel on August 23, 2017 at 3:05 p.m.

9 4. Following the above email, Mr. Wood and I received an email from Mr. Frimel  
10 indicating that Grasso continued to believe the deposition was premature and asking Ms. Allen to  
11 confirm that Grasso's deposition would also run concurrently to a corporate representative  
12 deposition of Beautiful Slides, Inc. Attached hereto as Exhibit C is a true and correct copy of an  
13 email to Mr. Wood from Mr. Frimel on August 23, 2017 at 10:17 p.m.

14 5. Attached hereto as Exhibit D is a true and correct copy of Mr. Wood's responsive  
15 correspondence to Mr. Frimel on August 24, 2017 at 6:46 a.m., and attached hereto as Exhibit E  
16 is a true and correct copy of Mr. Frimel's correspondence of that same date.

17 6. Attached hereto as Exhibit F is a true and correct copy of the original Notice of  
18 Deposition of Plaintiff Mitch Grasso and Request for Production of Documents, setting the  
19 deposition for Wednesday, September 6, 2017.

20 7. Attached hereto as Exhibit G is a true and correct copy of Grasso's Responses and  
21 Objections to the Notice of Deposition.

22 8. Attached hereto as Exhibit H is a true and correct copy of the Amended Notice of  
23 Deposition of Plaintiff Mitch Grasso and Requests for Production of Documents, setting the  
24 deposition for October 23, 2017.

25 9. Following the new notice of deposition, the parties again met and conferred via  
26 email. Grasso made clear that he was standing on his objection that the deposition was  
27 premature. Attached hereto as Exhibit I is a true and correct copy of a string of emails between  
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1 Mr. Frimel and Mr. Wood concerning Grasso's appearance at a deposition while the motion to  
2 dismiss was pending.

3 10. Attached hereto as Exhibit J are Grasso's updated Responses and Objections to  
4 the Amended Notice of Deposition.

5 I declare under penalty of perjury under the laws of the United States that the foregoing is  
6 true and correct and that this declaration was executed on the 25<sup>th</sup> day of October 2017.

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Kristen E. Drake  
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